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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/760,065	01/16/2004	Donald D. Dow	23,085-13	1973
23452	7590	06/01/2005	EXAMINER	
PATENT DEPARTMENT LARKIN, HOFFMAN, DALY & LINDGREN, LTD. 1500 WELLS FARGO PLAZA 7900 XERXES AVENUE SOUTH BLOOMINGTON, MN 55431			HAN, JASON	
			ART UNIT	PAPER NUMBER
			2875	

DATE MAILED: 06/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/760,065	DOW ET AL.	
	Examiner	Art Unit	
	Jason M. Han	2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to Independent Claim 1 have been considered but are moot in view of the new ground(s) of rejection.

The following rejection of the claims was based on the broadest interpretation given by the examiner [MPEP 2111], whereby the prior art is considered commensurate to the scope of the claims.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 15 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 15 is indefinite because of improper dependency. The examiner has assumed the dependency is on Claim 12 in the rejection below.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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3. Claims 1-4 and 7-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Holmberg et al. (U.S. Patent 4621308).

4. With regards to Claim 1, Holmberg discloses a portable light box including:

- A reflector assembly [Figure 1: (14)], further including:
 - = A base [Figure 2: (17)] having an upper peripheral edge defining an interior volume;
 - = A light source [Figure 2: (19)] disposed within the interior volume; and
 - = A cover plate [Figure 2: (18)] disposed over the interior volume;
- A carrying case having a top portion [Figure 1: (20)] and a bottom portion [Figure 1: (10)], each defining an interior volume, whereby the top and bottom portions are moveable between a first closed position and a second open position, and wherein a reflector assembly is received within the interior volume of the bottom portion of the carrying case; and
- A divider [Figure 3: (43, 44)] removably disposable within the interior volume of the top portion of the carrying case.

5. With regards to Claim 2, Holmberg discloses the top portion of the carrying case being removably secured to the bottom portion of the carrying case [Figure 4: (29-31)].

6. With regards to Claim 3, Holmberg discloses the cover plate being translucent [Column 3, Line 10].

7. With regards to Claim 4, Holmberg discloses the divider including a palette [Figure 3: (45)] having a plurality of recesses formed in an upper surface thereof for receiving items therein.

8. With regards to Claim 7, Holmberg discloses the interior volume of the top portion of said carrying case including a divider support [Figure 3: (20, 41, 45)] to removably receive and support the divider within the interior volume of the top portion of said carrying case [Column 3, Lines 33-43].

9. With regards to Claim 8, Holmberg discloses the light source including at least one electric lamp [Figure 2: (19)] electrically connected to an electric power source [Figure 2: (48)].

10. With regards to Claim 9, Holmberg discloses the electric power source including a DC battery source [Figure 6: (48-51)].

11. Claims 12-14 and 16-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Holmberg et al. (U.S. Patent 4621308).

12. With regards to Claim 12, Holmberg discloses a portable light box including:

- A reflector assembly [Figure 1: (14)], further including:
 - = A base [Figure 2: (17)] having an upper peripheral edge defining an interior volume;
 - = A light source [Figure 2: (19)] disposed within the interior volume; and
 - = A cover plate [Figure 2: (18)] disposed over the interior volume;
- A carrying case having a top portion [Figure 1: (20)] and a bottom portion [Figure 1: (10)], each defining an interior volume, whereby the top and bottom portions are moveable between a first closed position and a second open position, and wherein a reflector assembly is received within the interior volume of the bottom portion of the carrying case; and

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- A divider [Figure 3: (43, 44)] removably disposable within the carrying case above the cover plate (relative) and within the interior volume of the top portion of the carrying case when the carrying case is in the first closed position, wherein the divider has recesses for receiving tools such that when in said closed position the tools are restrained between the divider and an inner surface [Figure 3: (45)] of the closed top portion of the carrying case.
13. With regards to Claim 13, Holmberg discloses the top portion of the carrying case being removably secured to the bottom portion of the carrying case [Figure 4: (29-31)].
14. With regards to Claim 14, Holmberg discloses the cover plate being translucent [Column 3, Line 10].
15. With regards to Claim 16, Holmberg discloses the interior volume of the top portion of said carrying case including a divider support [Figure 3: (20, 41, 45)] to removably receive and support the divider within the interior volume of the top portion of said carrying case [Column 3, Lines 33-43].
16. With regards to Claim 17, Holmberg discloses the light source including at least one electric lamp [Figure 2: (19)] electrically connected to an electric power source [Figure 2: (48)].
17. With regards to Claim 18, Holmberg discloses the electric power source including a DC battery source [Figure 6: (48-51)].

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

18. Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holmberg et al. (U.S. Patent 4621308) as applied to Claim 4 above, and further in view of Maier (U.S. Patent 5348144).

19. With regards to Claim 5, Holmberg discloses the claimed invention as cited above, but does not specifically teach the palette including an opening for grasping by a hand of a user to hold during use.

Maier teaches, "The easel and palette assembly 32 is normally held by the artist by hand. A thumbhole (not shown) is often preferred by artists to grasp a palette. The palette base plate 40, if preferred for the material used for its construction, includes a plurality of knock-out holes 52. The artist is able to remove the knock-out hole 52 of his preference and to insert his thumb therein while holding the easel and palette assembly 32 during sketching [Column 5, Lines 55-62; underlines added by examiner for emphasis]."

It would have been obvious to one ordinarily skilled in the art at the time of invention to modify the portable light box of Holmberg to incorporate the thumbhole palette of Maier to accommodate artists in grasping the tool/supply tray to a desired position while working.

20. With regards to Claim 6, Holmberg in view of Maier discloses the claimed invention except for the opening in the palette being triangular. It would have been obvious at the time the invention was made to incorporate a triangular opening, since it

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has been held that mere changes in shape would be obvious to one ordinarily skilled in the art. *In re Dailey*, 149 USPQ 47 (CCPA 1966).

21. Claims 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holmberg et al. (U.S. Patent 4621308) as applied to Claim 8 above, and further in view of Mills et al. (U.S. Patent 4700634).

Holmberg discloses the claimed invention as cited above, but does not specifically teach the electric power source including an AC power source (re: Claim 10), nor an electrical power source including a DC battery source and an AC power source (re: Claim 11).

Mills teaches, " If desired, as shown in FIGS. 2 and 3, desk unit 20 preferably incorporates an AC adapter plug-receiving means 35. This allows illumination means 27 to be powered directly from a conventional AC source, using an AC to DC converter which is well known in the art. The incorporation of AC adapter plug-receiving means 35 allows the user to save battery power, when an AC source is available [Column 4, Lines 12-19; underlines added by examiner for emphasis]."

It would have been obvious to one ordinarily skilled in the art at the time of invention to modify the portable light box of Holmberg to incorporate the electric power source of Mills to provide greater flexibility in using the light box, whereby a user may plug into a wall receptacle, when available, to save battery life, or utilize battery power when remote from such a receptacle.

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22. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Holmberg et al. (U.S. Patent 4621308) as applied to Claim 12 above, and further in view of Maier (U.S. Patent 5348144).

Holmberg discloses the claimed invention as cited above, but does not specifically teach the divider being a palette including an opening for grasping by a hand of a user to hold during use.

Maier teaches, "The easel and palette assembly 32 is normally held by the artist by hand. A thumbhole (not shown) is often preferred by artists to grasp a palette. The palette base plate 40, if preferred for the material used for its construction, includes a plurality of knock-out holes 52. The artist is able to remove the knock-out hole 52 of his preference and to insert his thumb therein while holding the easel and palette assembly 32 during sketching [Column 5, Lines 55-62; underlines added by examiner for emphasis]."

It would have been obvious to one ordinarily skilled in the art at the time of invention to modify the portable light box of Holmberg to incorporate the thumbhole palette of Maier to accommodate artists in grasping the tool/supply tray to a desired position while working.

23. Claims 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holmberg et al. (U.S. Patent 4621308) as applied to Claim 17 above, and further in view of Mills et al. (U.S. Patent 4700634).

Holmberg discloses the claimed invention as cited above, but does not specifically teach the electric power source including an AC power source (re: Claim

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19), nor an electrical power source including a DC battery source and an AC power source (re: Claim 20).

Mills teaches, " If desired, as shown in FIGS. 2 and 3, desk unit 20 preferably incorporates an AC adapter plug-receiving means 35. This allows illumination means 27 to be powered directly from a conventional AC source, using an AC to DC converter which is well known in the art. The incorporation of AC adapter plug-receiving means 35 allows the user to save battery power, when an AC source is available [Column 4, Lines 12-19; underlines added by examiner for emphasis]."

It would have been obvious to one ordinarily skilled in the art at the time of invention to modify the portable light box of Holmberg to incorporate the electric power source of Mills to provide greater flexibility in using the light box, whereby a user may plug into a wall receptacle, when available, to save battery life, or utilize battery power when remote from such a receptacle.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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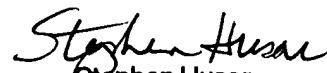
shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason M. Han whose telephone number is (571) 272-2207. The examiner can normally be reached on 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JMH (5/25/2005)


Stephen Husar
Primary Examiner